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March 9, 2021

**Via ECF**

The Honorable Sarah Netburn  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 430  
New York, NY 10007

**Re: Expert Schedule for *In re Terrorist Attacks of September 11, 2001*, 03  
MDL 1570 (S.D.N.Y.) (GBD) (SN)**

Dear Judge Netburn:

Defendants<sup>1</sup>, together with the Plaintiffs' Executive Committees (collectively, "Parties"), write jointly to respectfully request a modification of the Court's December 10, 2020 Order [ECF 6551] which imposed an April 30, 2021 deadline to complete expert discovery.

The Parties have endeavored to schedule depositions through a series of meet-and-confer sessions. However, the Parties' progress in crafting a schedule in compliance with the April 30 deadline was thwarted by three major obstacles: (i) limitations on the availability of counsel and expert witnesses during Ramadan, (ii) unanticipated as well as ongoing challenges presented by the Covid-19 pandemic, and (iii) the PECs' difficulties conducting expert witness depositions at the same time they are deposing witnesses from the Kingdom of Saudi Arabia ("KSA"). Recognizing that these factors prevent any reasonable likelihood that the Parties successfully can meet the April 30, 2021 deadline, the Parties respectfully request Your Honor's consideration of the impact posed by these obstacles and approval of the modified schedule proposed herein. We provide more detail below and set forth a proposed schedule for completion of depositions by July 23.

*1. Ramadan*

The holy month of Ramadan extends from the evening of April 12, 2021 through May 14, 2021, including Eid religious holidays. Lead counsel for defendant WAMY, counsel for MWL/IIRO, and certain of Defendants' expert witnesses observe Ramadan. WAMY's lead counsel fasts from dawn to sundown, and performs customary religious rituals after sundown, some of which extend until dawn. The observance of Ramadan precludes WAMY's lead counsel's ability to meaningfully participate in his client's representation during these

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<sup>1</sup> For the purposes of this letter, "Defendants" means: Dubai Islamic Bank, World Assembly of Muslim Youth and World Assembly of Muslim Youth International, International Islamic Relief Organization, Muslim World League, the four "Charity Officer Defendants" (Abdullah Omar Naseef, Abdullah bin Saleh al Obaid, Abdullah Mohsen al Turki, and Adnan Basha), and Yassin Kadi.

depositions. It is not feasible to vigorously question or defend witnesses while adhering to rigorous observances including fasting and abstaining from even a sip of water. In addition, Defendants' expert witnesses who observe Ramadan have indicated their unavailability to participate in depositions or deposition preparation during Ramadan.

Due to the critical nature of the role of expert testimony in this 16+ year-old multi-district litigation, the Parties recognize and agree that pursuing a robust deposition schedule during the period in which Ramadan overlaps with the expert discovery period (April 12 through April 30) would be a daunting task.

## *2. Covid-19*

As noted in our December 14, 2020 status report, we feared that the Parties may encounter difficulties completing expert depositions by the April 30 deadline "in light of special circumstances caused by the Covid-19 pandemic and the unique challenges that it presents to expert witness depositions." In that submission we wrote:

...either due to government stay-at-home orders, personal risk factors (such as age or vulnerable household members), and/or university restrictions, several defense experts have been unable to access their offices or research libraries, which has, in turn, restricted their access to sources they considered for their reports. Specifically, these defense experts, located in both the United States and abroad, are currently unable to access materials, including primary sources, upon which their reports and opinions rely, significantly impacting their ability to properly prepare for depositions. The continued inaccessibility of expert materials also poses a particular challenge in relation to the experts' ability to assess the rebuttal expert reports in the lead-up to depositions, because it may be critical for experts to be able to access the full-range of materials in a relatively short time frame prior to the expert depositions. In addition, at least one defense expert has been heavily involved in an emergency Covid-19 Task Force in response to the local needs of his community, which will continue to require a large commitment of his time and energy for the foreseeable future until the pandemic abates.

[ECF No. 6553]

Not only have those fears been realized in the intervening months since our last submission, new unanticipated issues have further frustrated our efforts to work with certain experts in preparing for their depositions, which is making the April 30 deadline untenable. Three of MWL/IIRO's witnesses are in Europe: one in Italy, where fresh rounds of government closures were enacted, and two in England, where a new Covid variant detected after our December 14 submission resulted in severe lockdowns of offices and new rounds of "stay at home" orders. These significant restrictions impact the experts' ability to perform their day-to-

day functions and restrict access to the reference materials necessary to assess Plaintiffs' voluminous rebuttal reports submitted on February 2, 2021. In addition, one other MWL/IIRO expert, Jacob Vahid Brown, works on a Covid-19 Task Force that became overrun with work due to the third wave of infections that came with the holiday season. He has been fully devoted during the weekdays to this important work assisting his community.

### *3. Proposed Modification*

As a result of the foregoing, Defendants met and conferred with the PECs on February 22, 2021, to propose an extension of the April 30 deadline. The PECs expressed support for an extension that afforded the witnesses and counsel the time to observe Ramadan, but explained that until Defendants' request, the PECs had intended to conduct the bulk of the expert discovery during the Ramadan period during which the Court had placed a hold on depositions of the witnesses of the Kingdom of Saudi Arabia. Citing the difficulties of proceeding with expert discovery simultaneous with depositions of the Kingdom's witnesses, the PECs agreed to consent to the Defendants' proposed extension provided the time to complete expert discovery is enlarged to July 23, 2021, to afford the time to conduct both sets of depositions during the same period. Defendants agreed to seek an extension with the additional time requested by the PECs in order to reach an overarching agreement that addresses the concerns and needs of all of the Parties.

In an attempt to reach a compromise that addresses the Parties' challenges while remaining sensitive to the Court's desire to move this case forward, the Parties respectfully request an extension of the deadline for the close of expert discovery through July 23, 2021 and, pending confirmation from the expert witnesses as to their availability, to conduct 16 depositions as follows:

- **Pre-Ramadan, March 22- April 9**
  - Brian Michael Jenkins
  - Chas Freeman
  - Matthew Levitt
- **During Ramadan, before April 30<sup>2</sup>**
  - Olivier Roy
  - John Sidel
  - John Barron
- Moratorium, May 3-May 14 during final weeks of Ramadan
- **Post-Ramadan, before July 23**
  - Jonathan Benthall
  - Khalid Blankinship
  - Vahid Brown

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<sup>2</sup> Despite the challenges outlined above, the Parties agreed to a maximum of three depositions to be held during Ramadan.

- Victor Comras
- Jimmy Gurulé
- Sherman Jackson
- Evan Kohlmann
- Jonathan Marks
- Marc Sageman
- Jonathan Winer

We appreciate and thank the Court for its consideration.

Respectfully submitted,

/s/ Omar t. Mohammedi, Esq.

Omar T. Mohammedi, Esq.

/s/ Frederick Goetz

Frederick J. Goetz, Esq.